UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 26, 2012

CBCA 2840-RELO

In the Matter of KELLY A. WILLIAMS

Kelly A. Williams, Newark, DE, Claimant.

Eric J. Feustel, Administrative Law Attorney, United States Army Installation Management Command, United States Army Garrison Aberdeen Proving Ground, Aberdeen Proving Ground, MD, appearing for Department of the Army.

DANIELS, Board Judge (Chairman).

Kelly A. Williams, an employee of the Department of the Army, purchased a house near her new duty station after having been transferred in May 2011. The agency reimbursed her for many of the fees she incurred in making the purchase, but denied reimbursement of others. Ms. Williams asks the Board to direct the agency to reimburse her for three fees it declined to pay. In response, the Army notes that Ms. Williams, as a nonprofessional employee of the agency's Communications-Electronics Command at Aberdeen Proving Ground, Maryland, is a member of a bargaining unit between that command and American Federation of Government Employees Local 1904 (AFL-CIO). The Army moves to dismiss the case on the ground that the Board has no authority to hear it.

As we have frequently explained:

> The Civil Service Reform Act provides that generally, collective bargaining agreements between unions and agency management are to provide procedures for the settlement of grievances, and with limited exceptions, the procedures set out in such an agreement "shall be the exclusive administrative procedures for resolving grievances which fall within its coverage." 5 U.S.C. § 7121(a)(1) (2000). The Court of Appeals for the Federal Circuit has consistently held that

> this law means if a matter is arguably entrusted to a grievance procedure, no review outside that procedure may take place unless the parties to the agreement have explicitly and unambiguously excluded that matter from the procedure. *Dunklebarger v. Merit Systems Protection Board*, 130 F.3d 1476 (Fed. Cir. 1997); *Muniz v. United States*, 972 F.2d 1304 (Fed. Cir. 1992); *Carter v. Gibbs*, 909 F.2d 1452 (Fed. Cir. 1990) (en banc). Decisions by this Board and its predecessor in settling claims by federal civilian employees for travel and relocation expenses, the General Services Board of Contract Appeals, have consistently applied the statute, as interpreted by the Court of Appeals, to dismiss claims whose resolution is governed by provisions of collective bargaining agreements. *E.g.*, *Margaret M. Lally*, CBCA 791-TRAV, 07-2 BCA ¶ 33,713; *James E. Vinson*, CBCA 501-TRAV, 07-1 BCA ¶ 33,502; *Rebecca L. Moorman*, GSBCA 15813-TRAV, 02-2 BCA ¶ 31,893; *Bernadette Hastak*, GSBCA 13938-TRAV, et al., 97-2 BCA ¶ 29,091.

Daniel T. Garcia, CBCA 2007-RELO, 10-2 BCA ¶ 34,468 (quoting *Rafal Filipczyk*, CBCA 1122-TRAV, 08-2 BCA ¶ 33,886); *see also Robert Gamble*, CBCA 1854-TRAV, et al.,11-1 BCA ¶ 34,655.

The collective bargaining agreement applicable to Ms. Williams provides that its negotiated grievance procedures are "the exclusive procedures available to Employees and the Parties for the processing, resolving, and settlement of grievances that fall within its scope." The agreement defines the term "grievance" to include "any valid complaint . . . concerning . . . [a]ny claimed violation, misinterpretation, or misapplication of law, rule, or regulation affecting conditions of employment." Ms. Williams, in her cogent and comprehensive letter to the Board, maintains that the Army has misconstrued the Defense Department's Joint Travel Regulations in denying her reimbursement. As noted in the cited decisions (and many others), the Government's travel regulations are considered to affect conditions of employment. Thus, unless claimed violations of these regulations are explicitly and unambiguously excluded from the collective bargaining agreement's grievance procedures, this claim must be processed, resolved, and settled through these procedures.

The agreement does exclude several matters from its grievance procedures. Claimed violations of travel regulations are not among the exclusions, however. Therefore, they must be handled through these procedures. Ms. Williams has sent us an e-mail message from the president of American Federation of Government Employees Local 1904 which states his opinion that collective bargaining agreements between agencies and unions do not mention adjudication of relocation benefit claims. The union president is correct that some collective bargaining agreements exclude such claims from their grievance procedures. *See*, *e.g.*,

Charles A. Houser, CBCA 2149-RELO, 11-1 BCA ¶ 34,769; *Garcia* (successor agreement). He is not correct as to his own agreement, however; the plain language of this agreement does not exclude relocation benefit claims from the grievance procedures.

Consequently, we dismiss this case.

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STEPHEN M. DANIELS
Board Judge